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In re Application of:	:	
PRENTNER, Christian, et al.	:	DECISION
U.S. Application No.: 10/585,394	:	
PCT No.: PCT/EP2004/014688	:	
International Filing Date: 23 December 2004	:	
Priority Date: 12 January 2004	:	
Attorney's Docket No.: D4700-00424	:	
For: DRAWER PULL-OUT GUIDE	:	

This decision is issued in response to the "Petition Under 37 CFR 1.48(a) For Correction Of Inventorship – Joint Inventors" filed 28 December 2006, treated herein under 37 CFR 1.497(d).¹ Applicants have paid the required \$130 processing fee.

BACKGROUND

On 23 December 2004, applicant filed international application PCT/EP2004/014688. The application claimed a priority date of 12 January 2004, and it designated the United States. On 21 July 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 12 July 2006. The published international application listed one applicant/inventor for the United States: Christian PRENTNER.

On 07 July 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, an English translation of the international application, and an unexecuted declaration.

On 28 December 2006, applicant filed the "Petition Under 37 CFR 1.48(a) For Correction Of Inventorship – Joint Inventors" considered herein, accompanied by a declaration that named and was executed by two inventors: inventor of record Christian PRENTNER, and an additional inventor, Gunter GRABHER. The petition seeks to have Gunter GRABHER added as an additional inventor of record for the present application, thereby permitting acceptance of the declaration filed 28 December 2006.

¹ 37 CFR 1.497(d), rather than 37 CFR 1.48(a), is the applicable regulation for adding an inventor to a national stage application filed under 35 U.S.C. 371.

DISCUSSION

Section 1893.01(e) of the MPEP states the following regarding changes in the inventorship of an international application entering the national stage (emphasis added):

The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*. See 37 CFR 1.41(a)(4). Accordingly, **an oath or declaration that names an inventive entity different than that set forth in the international application will not be accepted for purposes of entering the U.S. national phase unless the requirements under 37 CFR 1.497(d) are satisfied.** These requirements include: (A) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (B) the processing fee set forth in 37 CFR 1.17(i); and (C) the written consent of the assignee if an assignment has been executed by any of the original named inventors (see 37 CFR 3.73(b)).

As noted above, applicant has filed a declaration that names an inventive entity different than that set forth in the international application (specifically, Gunter GRABHER has been added as an inventor). Accordingly, applicant must satisfy the requirements of 37 CFR 1.497(d) before such declaration can be accepted.

The present submission includes the required statement of non-deceptive intent from the person to be added to the application, as well as the required processing fee. Requirements (A) and (B) are therefore satisfied. However, applicant has not submitted the written consent of assignee to the requested change in inventorship. Requirement (C) is therefore not satisfied.²

Based on the above, applicant has failed to submit all the requirements of a grantable request under 37 CFR 1.497(d). Accordingly, the request to add Gunter GRABHER as an additional inventor of record is appropriately dismissed on the present record.

Based on the above, the declaration filed 28 December 2006 is defective for failure to properly identify the inventors of record herein.

CONCLUSION

Applicant's request to correct inventorship under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

The inventorship of record herein remains that set forth in the international application, that is, Christian PRENTNER remains the sole inventor of record.

The declaration filed 28 December 2006, which includes additional inventor Gunter GRABHER, is defective on the present record for failure to properly identify the inventors of record herein.

² It is noted that such assignee consent must be submitted in compliance with 37 CFR 3.73(b).

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Request Under 37 CFR 1.497(d)" and must include the materials required to satisfy item (C) of a grantable request under 37 CFR 1.497(d), as discussed above and in the MPEP, that is, the written consent of the assignee to the proposed change of inventorship in the form required by 37 CFR 3.73(b).

Failure to file a proper response will result in abandonment of the application.
Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read 'R. Ross'.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459